

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1061**

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**Introduced by Assembly Member Lieu**

**(~~Coauthor: Assembly Member Skinner~~ *Coauthors: Assembly Members Bill Berryhill, Huffman, Jeffries, Jones, and Skinner*)**

**(Coauthors: Senators ~~Hancock~~ *DeSaulnier, Hancock, and Lowenthal*)**

February 27, 2009

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An act to repeal and add Section 1353.8 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, as amended, Lieu. Common interest developments: water-efficient landscapes.

Existing law requires a local agency to adopt a specified updated model ordinance regarding water-efficient landscapes or a water-efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance. Existing law allows certain water providers to take specified actions regarding water conservation.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. The act provides that the architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low water-using plants as a group.

This bill would, instead, provide that a provision of any of the governing documents of a common interest development shall be void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group, or

has the effect of prohibiting or restricting compliance with a local water-efficient landscape ordinance or water conservation measure described above.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Landscapes are essential to the quality of life in California,  
4 and are an important aesthetic element with economic value in  
5 common interest developments.

6 ~~(b) According to the Center for California Homeowner~~  
7 ~~Associations Law, nearly 25 percent of the state's population lives~~  
8 ~~in a common interest development.~~

9 *(b) According to the California Association of Community*  
10 *Managers, the 2007 California Community Association Statistics*  
11 *indicate that approximately 11 million Californians, which is*  
12 *nearly 33 percent of the state's population, live in common interest*  
13 *developments.*

14 (c) Landscape design, installation, maintenance, and  
15 management can and should be water efficient. The use of  
16 water-efficient landscapes contributes to the state's efforts to  
17 increase the reliability of its water supplies.

18 (d) There are common interest developments with governing  
19 documents that hinder or preclude property owners from complying  
20 with applicable water conservation requirements.

21 (e) It is in the public interest to ensure that property owners  
22 within a common interest development comply with ~~water~~  
23 ~~conservation requirements, while permitting common interest~~  
24 ~~developments to maintain their interest in preserving a uniform~~  
25 ~~landscape aesthetic.~~ *applicable state and local ordinances and*  
26 *regulations regarding water conservation and drought, while*  
27 *maintaining the inherent powers of a common interest development*  
28 *to establish uniform and acceptable architectural and landscaping*  
29 *standards.*

30 (f) It is also in the public interest to ensure that property owners  
31 within a common interest development may comply with

1 emergency water use regulations adopted by authorized providers  
2 of public water supply.

3 SEC. 2. Section 1353.8 of the Civil Code is repealed.

4 SEC. 3. Section 1353.8 is added to the Civil Code, to read:

5 1353.8. Notwithstanding any other law, a provision of any of  
6 the governing documents of a common interest development shall  
7 be void and unenforceable if it does any of the following:

8 (a) Prohibits, or includes conditions that have the effect of  
9 prohibiting, the use of low water-using plants as a group.

10 (b) Has the effect of prohibiting or restricting compliance with  
11 either of the following:

12 (1) A water-efficient landscape ordinance adopted or in effect  
13 pursuant to subdivision (c) of Section 65595 of the Government  
14 Code.

15 (2) Any regulation or restriction on the use of water adopted  
16 pursuant to Section 353 or 375 of the Water Code.